

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants: R.D.L. Campbell et al. Attorney Docket No. DPNC115519  
Application No: 09/927,899 Art Unit: 2161 / Confirmation No.: 5461  
Filed: August 10, 2001 Examiner: E.P. LeRoux  
Title: METHOD AND SYSTEM FOR PROVIDING REMOTE ACCESS TO  
THE FACILITIES OF A SERVER COMPUTER

APPELLANTS' SECOND AMENDED APPEAL BRIEF

Seattle, Washington  
February 22, 2007

TO THE COMMISSIONER FOR PATENTS:

This second Amended Appeal Brief is in support of a Notice of Appeal filed January 9, 2006, to the Board of Patent Appeals and Interferences appealing the decision dated September 7, 2005, of the Primary Examiner finally rejecting Claims 1, 2, 4-9, 11-13, and 15-25.

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I. REAL PARTY IN INTEREST

The subject application is owned by Deep 9 Corporation of Seattle, Washington.

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## II. RELATED APPEALS AND INTERFERENCES

Upon information and belief, appellants do not have any knowledge of related appeals or interferences that may directly affect or have a bearing on the decision of the Board of Patent Appeals and Interferences (hereinafter "the Board") in the pending appeal.

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### III. STATUS OF CLAIMS

On August 10, 2001, appellants filed the pending continuation-in-part patent application including Claims 1-23. On March 29, 2002, appellants responded to a Notice to File Missing Parts by submitting declaration, assignment, and fees connected with the original filing. On June 14, 2004, the Examiner issued a first Office Action rejecting Claims 1-23. On December 14, 2004, appellants filed an amendment and response in which Claims 4 and 17-18 were canceled without disclaimer and prejudice. Claims 1, 5, 6, 11, 14, and 19 were amended. On April 19, 2005, the Examiner issued a second Office Action, finally rejecting Claims 1-3, 5-16, and 19-23.

This Appeal follows in which appellants entreat the Board to reverse the final rejection of Claims 1-3, 5-16, and 19-23. Along with the Appeal, appellants submitted an amendment under 37 C.F.R. § 1.132 to correct antecedent bases of Claims 1, 2, 3, 6, and 11 and remove these issues from the appeal. The claims on appeal are set forth in the Claims Appendix.

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#### IV. STATUS OF AMENDMENTS

An amendment has been filed to remove issues from the appeal and has been considered and entered by the Examiner subsequent to the final rejection. This amendment focuses solely on formalities connected with Claims 1, 2, 3, 6, and 11 to correct antecedent bases.

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**V. SUMMARY OF CLAIMED SUBJECT MATTER**

Regarding the claims, independent Claim 1 is directed to a method. See the pending specification at page 2, line 30, to page 3, line 2; page 3, lines 3-12; page 3, lines 13-27; page 8, lines 18-26; page 27, line 21, to page 28, line 2; page 28, lines 3-11; page 28, lines 12-27; page 30, line 34, to page 31, line 10; and FIGURES 18, elements 110, 116, and 30, among other places. Claim 1 defines a method for providing remote access to the facilities of a server computer. See page 3, lines 29-31. The method recites receiving a user request to access a first server computer. See page 3, lines 13-15. The method then recites determining whether the user request may be granted. *Id.* at lines 14-15. See also page 17, lines 23-35. The method also recites, in response to determining that the user request may be granted, determining whether access to a second server computer should also be granted. *Id.* at lines 10-15. See also page 30, lines 19-22, 24-26. Moreover, in response to determining that access to the second server computer should be granted, the method recites transmitting a request to access to the second server computer from the first server computer to the second server computer via a secure communications connection. See page 30, lines 22-24. The second server computer is operative to provide facilities for storing and updating a network database in a manner that is visually consistent with a Web site on the first server computer. See page 1, line 12. See also page 27, lines 28, 29. See also page 28, line 2.

Claims 2, 3, and 5 are dependent from independent Claim 1 and are directed to further limitation of the method described above. Claim 2 is dependent on Claim 1 and recites that the second server computer comprises a server computer operative to store and update the network database. See the pending specification at page 1, line 12; FIGURES 10A-10C, routine 1000. Claim 3 is dependent on Claim 1 and recites that the first server computer comprises a server computer operative to provide the Web site. See the pending specification at page 3, lines 1-2.

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Claim 5 is dependent on Claim 1 and recites that when a method receives an indication that access to the second server computer should also be granted, the method redirects the user from the first computer to the second computer. See the pending specification at page 31, line 9; FIGURE 20, element 2014.

Independent Claim 6 is directed to a method. See the pending specification at page 3, lines 13-27; page 15, lines 7-13; page 23, lines 17-30; page 23, line 31, to page 24, line 9; page 27, line 21, to page 28, line 27; page 28, lines 28-35; page 31, lines 11-24; page 34, lines 15-22; page 35, lines 17-24; and FIGURES 18, elements 110, 116, and 30, among other places. Independent Claim 6 is directed to a method for providing remote access to the facilities of a server computer. See page 3, lines 29-31. The method comprises receiving a request at a server computer operative to store and update a network database to add a new user to a group of users authorized to utilize the network database. *Id.* lines 16, 17. See also page 5, lines 18-19. See also page 31, lines 17-21. The method also comprises determining whether the request may be granted. See page 36, lines 7-9. Moreover, in response to determining that the request may be granted, the method recites adding the new user to the group of users authorized to utilize the network database. See page 32, lines 21, 22. See also page 36, lines 17-19. The group of users defines a collaborative group spanning across the server computer and another server computer so as to allow users to share data. See page 3, lines 10-12 and 19-21.

Claims 7-10 are dependent on independent Claim 6 and are directed to further limitation of the method described above. Claim 7 is dependent on Claim 6 and recites that the request is received over a secure communications link from a second server computer. See the pending specification at page 3, line 7; page 29, line 32; FIGURE 19, element 1912. Claim 8 is dependent on Claim 7 and recites that a login and password for the new user are provided as a part of the request. See the pending specification at page 29, line 21; and FIGURE 19,

element 1904. Claim 9 is dependent on Claim 8 and recites determining whether the new user has previously been added to the group of users authorized to utilize the network database. In response to determining that the new user has previously been added to the group of authorized users, the method also recites denying the request to add the new user. See the pending specification at page 36, line 21; FIGURE 25, element 2520; page 36, line 18; FIGURE 25, element 2518; page 36, line 15; FIGURE 25, element 2524; and page 36, line 14, FIGURE 25, element 2516. Claim 10 is dependent on Claim 6 and recites that the server computer comprises a server computer operative to store and update a network database. See the pending specification at page 1, line 11. The second server computer comprises a server computer operative to provide an Internet Web site.

Claim 11 is directed to a method. See the pending specification at page 3, lines 13-27; page 28, lines 28-35; page 26, lines 26-34; page 37, lines 1-5; and FIGURES 18, elements 110, 116, and 30, among other places. Independent Claim 11 is directed to a method for providing remote access to the facilities of a server computer. See page 3, lines 29-31. The method comprises receiving a request at a server computer operative to store and update a network database to update user data for users authorized to utilize the network database. See page 33, lines 13-15. See also page 36, lines 30-34. See also page 37, lines 1, 2. The user is removable from the server computer when a corresponding user is removed from another server computer that issues the request. See page 3, lines 21-23. See also page 3, lines 16-19. See also page 28, lines 19-22. See also page 33, lines 32-34. The method also comprises determining whether the request may be granted. See page 37, lines 6-24. Moreover, in response to determining that the request may be granted, the method recites updating the user data as specified in the request. See page 33, lines 4-10.

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Claims 12-13 are dependent from independent Claim 11 and are directed to further limitation of the method described above. Claim 12 is dependent on Claim 11 and recites that the request is received over a secure communications link from a second server computer. See the pending specification at page 3, line 7; page 19, line 32; FIGURE 19, element 1912; page 29, line 33; page 29, line 35, page 30, line 3; and page 30, line 7. Claim 13 is dependent on Claim 12 and recites that the server computer comprises a server computer operative to store and update the network database and the second server computer comprises a server computer operative to provide an Internet Web site. See the pending specification at page 1, line 11.

Independent Claim 14 is directed to a method. See the pending specification at page 33, lines 17-30; page 35, lines 1-8; and FIGURES 18, elements 110, 116, and 30, among other places. Independent Claim 14 is directed to a method for providing remote access to the facilities of a server computer. See page 3, lines 29-31. The method comprises receiving a request for a facility available at a server computer operative to store and update a network database via a secure communications link. See page 5, lines 21-23. See also page 28, lines 28-35. The method also comprises determining whether the request may be granted. See page 35, lines 30-35. Furthermore, in response to determining that the request may be granted, the method recites executing the facility at the server computer according to the request. See page 36, lines 14-26. The facility includes creation of a new collaborative group in which users may share data. See page 3, lines 19-21. See also page 23, lines 17-19. The method refrains from creating the collaborative group if a quota has been exceeded. See page 23, lines 20-21.

Claims 15-16 and 19-21 are dependent from independent Claim 14 and are directed to further limitation of the method described above. Claim 15 is dependent on Claim 14 and recites that the facility comprises an application programming interface for deleting access rights for a user to the server computer. See the pending specification at page 2, line 32; page 3, line 8,

page 3, lines 16-18; page 24, lines 7-9; page 28, line 21; FIGURE 18, element 115. Claim 16 is dependent on Claim 15 and recites that the request further comprises a user ID for the user to be deleted. See the pending specification at page 7, line 22. Claim 19 is dependent on Claim 14 and recites that the request further comprises the identity of one or more users to be added to the new collaborative group. See the pending specification at page 23, lines 22-24; and FIGURE 13, element 1304, and element 1306. Claim 20 is dependent on Claim 14 and recites that the facility comprises an application programming interface for adding new users to an existing collaborative group in which users may share data. See the pending specification at page 3, lines 21-23. Claim 21 is dependent on Claim 14 and recites that the facility comprises an application programming interface for removing users from an existing collaborative group in which users may share data. See the pending specification at page 3, lines 21-23.

Independent Claim 22 is directed to a computer-readable medium. See the pending specification at page 3, lines 28-30. Independent Claim 22 is a computer-readable medium that comprises instructions which, when executed by a computer, cause the computer to perform any one of the methods of Claims 1-3, 5-16, and 19-21. The actions of these methods have previously been described, albeit in a different manner. Independent Claim 23 is directed to a computer-controlled apparatus. See the pending specification at page 3, lines 28-30. Independent Claim 23 is a computer-controlled apparatus capable of performing any one of the methods of Claims 1-3, 5-16, and 19-21, albeit in a different manner.

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## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 11-13 were rejected under 35 U.S.C. § 112, first paragraph, because it was said that these claims failed to comply with the written description requirement. Claims 6-8, 10, 22, and 23 were rejected under 35 U.S.C. § 102(e) as being anticipated by the teachings of U.S. Patent No. 5,968,176 (hereinafter "Nessett et al."). Claims 1-3 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of the teachings of Nessett et al., and further in view of the teachings of U.S. Patent Application Publication No. 2002/0129058 (hereinafter "Story et al."). Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable in view of the teachings of Nessett et al., and further in view of the teachings of U.S. Patent No. 6,539,021 (hereinafter "Kennelly et al."). Claims 11-13 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of the teachings of Nessett et al., and further in view of the teachings of U.S. Patent No. 6,339,826 (hereinafter "Hayes, Jr. et al."). Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable in view of the teachings of Nessett et al., and further in view of the teachings of U.S. Patent No. 5,946,686 (hereinafter "Schmuck et al."). Claims 15, 16, and 19-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable under the teachings of Nessett et al., Schmuck et al., and Hayes, Jr. et al.

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## VII. ARGUMENT

[Each ground of rejection must be treated under a separate heading (Heading 2)

[Any claim or claims argued must be placed under a subheading (Heading 3) identifying the claim(s) by number(s).]

As discussed below, the Examiner has failed to establish a *prima facie* case. The first is the lack of evidence why a person skilled in the art would not recognize in appellants' disclosure a description of the invention defined by the claims. As indicated by M.P.E.P. § 2163.02, the subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement. The second is the lack of a *prima facie* case of anticipation. To establish *prima facie* anticipation of a claimed invention, each and every element arranged as in the claim must be found in a single prior art reference. See M.P.E.P. § 2131. The third is the lack of a *prima facie* case of obviousness. M.P.E.P. § 2143.03 requires that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

The applied and cited references do not teach, among many other features, the feature of "said second server computer is operative to provide facilities for storing and updating a network database in a manner that is visually consistent with a Web site on said first server computer" as recited in independent Claims 1, 22, and 23, albeit in a different manner. The applied and cited references also do not teach the feature of "the said group of users defining a collaborative group spanning across said server computer and another server computer so as to allow users to share data," as recited in independent Claim 6. Moreover, the applied and cited references do not teach the feature of "said user being removable from said server computer when a corresponding user is removed from another server computer that issues said request," as recited in independent Claim 11. Finally, the applied and cited references do not teach the feature of "the method

refraining from creating said collaborative group if a quota has been exceeded," as recited in Claim 14. For better appreciation of the arguments below, appellants summarized the applied references.

A. Summary of the Nessett et al. Reference

The system of Nessett et al. establishes security in a network that includes nodes having security functions that operate in multiple protocol layers. Multiple network devices, such as remote access equipment, routers, switches, repeaters, and network cards, each having security functions, are configured to contribute to the implementation of distributed firewall functions in the network. By distributing firewall functionality throughout many layers of the network in a variety of network devices, a pervasive firewall is said to be implemented by the system of Nessett et al. The multi-layer firewall includes a policy definition component that accepts policy data that defines how the firewall should behave. The policy definition component can be a centralized component or a component that is distributed over the network. The multi-layer firewall also includes a collection of network devices that are used to enforce the defined policy. The security functions operating in this collection of network devices across multiple protocol layers are said to be coordinated by the policy definition component so that particular devices enforce that part of the policy pertinent to that part of the network.

B. Summary of the Story et al. Reference

The system of Story et al. is directed to publishing hypermedia documents by recursively parsing a hypermedia document to identify at least one directed linked document and at least one nested linked document. The addresses for the hypermedia document, the direct linked document, and the nested linked document are remapped and versions of the hypermedia document and the linked documents are stored in a directory at their remapped addresses. The directory then can be distributed to another location on a network. Alternatively, or in addition,

the system of Story et al. processes the hypermedia document and a document linked to it (e.g., converted to standard formats) based on predefined criteria before versions of the documents are stored in the directory.

C. Summary of the Kennelly et al. Reference

The system of Kennelly et al. is directed to a network packet switch that provides access to a network-based computer system. The network packet switch has a public access port and a private access port and includes a computer-readable medium containing a computer program product for producing management objects that configure the network packet switch. The switch stores a set of management objects, determines attributes of an organization associated with one or more of the management objects, and defines a subset of management objects associated with the organization based on the attributes of the organization. The switch provides the user with the same access to a set of functions defined by the subset of management objects regardless of whether the user accesses the network packet switch by the public access port or the private access port.

D. Summary of the Hayes, Jr. et al. Reference

The title of the Hayes, Jr. et al. reference is "Client-Server System for Maintaining a User Desktop Consistent with Server Application User Access Permissions." The system of Hayes, Jr., et al., is directed to a system with a network interconnecting a server and a plurality of user stations. The server stores a plurality of user applications for downloading to user stations and further stores access permissions for the applications for each user. When a user attempts to log on to the system, the server uses the user's log-on identifier to build a list of applications for which the user has access permission. The server downloads to the station a list of applications to which the user has access permission. The user station uses the list to build a folder containing only the applications from the list to which the user has access permission. The

system further verifies from the list that the user has access to applications that are represented by objects that the user may have added to his or her desktop at an earlier time. For each user desktop preference specified by the user at an earlier time that corresponds to a user application, the access permission for the user through the user application is checked from the list, and, if the application is not included on the list, the desktop object representing the application is removed from the desktop.

E. Summary of the Schmuck et al. Reference

The system of Schmuck et al. is directed to a computer system having a shared disk file system running on multiple computers, each having their own instance of an operating system and further being coupled for parallel data sharing access to files residing on network attached to shared disks. The system of Schmuck et al. can be used as a parallel file system in a shared disk environment by use of a scalable directory service for the system. Synchronous and asynchronous takeover of a metadata node occurs for correction of metadata, which was under modification and a new computer node to be a metadata node for that file. Locks are not constantly required in the system of Schmuck et al. to allocate new blocks on behalf of a user. Additionally, the system of Schmuck et al. provides recoverable local shares for quota management. A quota server and a quota client are provided for each file system, and a quota check utility allows parallel environments with minimal interference to other applications which require the use of quotas.

F. Rejection Under 35 U.S.C. § 112, First Paragraph

1. Independent Claim 11 and Dependent Claims 12, 13

Focusing on Claim 11, the claimed invention is recited as a method for providing a remote access to the facilities of a server computer. The method receives a request at a server computer operated to store and update a network database to update user data for a user

authorized to utilize the network database. The user is removable from the server computer when a corresponding user is removed from another server computer that issues the request. The method also determines whether the request may be granted, and in response to determining that the request may be granted, the method updates the user data as specified in the request. The Examiner alleged that the claim limitation, "the user being removable from the server computer when a corresponding user is removed from another server computer that issues the request" fails to comply with the written description requirement under 35 U.S.C. § 112, first paragraph.

More specifically, the Examiner opined that a skilled artisan would not be able to make and use the invention because the specification does not contain a clear and concise description of what comprises a "corresponding user." Additionally, the Examiner contended that the specification also does not include a clear and accurate description of why a corresponding user must be removed before "the user" is removable. Of course, neither contention is correct. As explained by M.P.E.P. § 2163, a description as filed is presumed to be adequate, unless or until sufficient evidence or reasoning to the contrary has been presented by the Examiner to rebut the presumption, citing favorably *In re Marzocchi*, 439 F.2d 220, 224, 169 U.S.P.Q. 367, 370 (C.C.P.A. 1971). Most importantly, M.P.E.P. § 2163.02 explains that the subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.

Thus, the fact that the Examiner cannot find "a corresponding user" does not end his burden to show sufficient evidence. Appellants now turn to the first contention that the specification somehow does not contain a clear and concise description of the claim limitation "corresponding user." Appellants recognize a technical problem that has not been solved:

By co-branded a Web site as described above, a great deal of value may be provided to the business partner. The business partner can offer services that appear to come from the business partner without making a large investment in creating such a service from the ground up. However, such

an arrangement is not without its drawbacks. For instance, the partner Web site and the co-branded Web site are typically password protected and therefore require users to register before they may be authorized to access the Web sites. This may be frustrating for a user or system administrator who has to register twice with each site and then login to each site separately for access. Moreover, when users are deleted from the partner Web site, they should also be deleted from the co-branded Web site. If this does not occur, a former employee or customer may retain access to the co-branded Web site even after their authorization to access the partner site has been deleted[.]

as found at page 3, lines 11-22 of appellants' pending specification. Appellants then went on to explain in great detail of how to solve that particular problem. See pending specification at page 3, lines 3-12; page 3, lines 13-27; FIGURE 23; page 24, lines 7-9; page 28, lines 19-22; page 28, lines 22-24; page 33, line 31 to page 34, line 8; page 34, lines 9-14; among many other places.

Thus, it is difficult to understand how the Examiner could not find support for the claim limitation "corresponding user." If the Examiner is requiring appellants to use exact terms, the law does not require the subject matter of the claims to be described literally. One problem is that the Examiner is assuming that for every person there can be only one user name connected with him. But that is not the reality. For example, a person can subscribe to two different Web sites. The person may have to use two different user names, but the two user names still reference the same person, not two different persons. Because of the misunderstanding of what is required under 35 U.S.C. § 112, first paragraph, pertaining to the written description requirement, the Examiner has utterly failed in establishing a *prima facie* case.

Appellants now turn to the second contention, which is that appellants' specification does not include a clear and accurate description of why a corresponding user must be removed. As explained on page 2, lines 19-22:

Moreover, when users are deleted from the partner Web site, they should also be deleted from the co-branded Web Site. If this does not occur, a

former employee or customer may retain access to the co-branded Web site even after their authorization to access the partner's site has been deleted.

That is the reason why the corresponding user must be removed. Appellants find it difficult to understand how much more explanation has to be given to explain that simple concept. Thus, a *prima facie* case showing the lack of written description has not been established in this case.

G. Rejection Under 35 U.S.C. § 102(e) In View of the Teachings of Nessett et al.

1. Independent Claims 6, 22, and 23

The applied and cited references do not teach, among many other limitations, the claim limitation of "the said group of users defining a collaborative group spanning across the server computer and another server computer so as to allow users to share data," as recited in independent Claims 6, 22, and 23, albeit in a different manner. More generally, Claim 6 succinctly defines a method for providing remote access to the facilities of a server computer. The method recites receiving a request at a server computer operated to store and update a network database to add a new user to a group of users authorized to utilize the network database. The method also comprises determining whether the request may be granted. Furthermore, in response to determining that the request may be granted, the method recites adding the new user to the group of users authorized to utilize the network database. The group of users defines a collaborative group spanning across the server computer and another server computer so as to allow users to share data. Because the Examiner has failed to show that Nessett et al. discloses every element of the claimed invention, no *prima facie* case of anticipation has been established.

a. The Examiner Has Utterly Failed to Establish a Prima Facie Case of Anticipation By Neglecting to Show That Every Claim Limitation Is Taught by Nessett et al.

Not a single claim limitation is taught or suggested by Nessett et al. As a first example, the system of Nessett et al. completely lacks the feature of "receiving a request at a server computer operative to store and update the network database to add a new user to a group of users authorized to utilize said network database," as recited in Claim 6. The Examiner argued that this limitation is disclosed at Figure 2, element 111; Col. 10, lines 40-45; Figure 2, element 115; and Col. 15, lines 40-45 of Nessett et al. Element 111 of Figure 2 of Nessett et al. represents a stand-alone dial up end-system, such as a telephone, and has nothing to do with "receiving a request" as recited in Claim 6. Col. 10, lines 40-45 of Nessett et al. read as follows:

The PSTN 105 is connected through a modem 110 to a stand alone dial up end system 111. Also, the PSTN 105 is coupled to a remote access router 112. The remote access router 112 is connected to end systems 113 and 114. Also the remote access router 112 is connected to a terminal server 115, which in turn is connected to end systems 116 and 117.

The above paragraph has nothing to do with receiving a request. Instead, it discusses the connection of various devices to the public switched telephone network. There is no discussion of the claim limitation "receiving a request" as recited in Claim 6. Element 115 of Figure 2 of Nessett et al. discloses a terminal server, which is a computer that allows devices to connect to a network, which is the public switched telephone network. It is not a server computer that is operative to store and update a network database to add a new user to a group of users as recited in Claim 6. Nessett et al. at Col. 15, lines 40-45 provides as follows:

All three configurations require some sort of network access control. The WAN Access case authenticates and authorizes users before giving them access to the WAN. Those ISPs that also provide access to local resources (e.g., locally managed content, email services, Web pages) in addition to Internet access, also authenticate and authorize users before allowing them to use the local resources.

Nowhere in the above paragraph discusses the operation to store and update the network database to add a new user to a group of users. That paragraph above discusses authentication and authorization of users before giving them access to a wide area network. That is very different from adding a new user to a group of users as recited in Claim 6. Nothing in that paragraph discusses the recited claim limitation of Claim 6.

b. To Anticipate an Invention, the Prior Art Must Teach the Identical Invention

Because Nessett et al. teaches nothing about the claimed invention, it is not prior art. As specified by M.P.E.P. § 2131.01, "the identical invention must be shown in as complete detail as is contained in the . . . claim," citing favorably *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989) (emphasis provided). Because the Examiner has failed to show that Nessett et al. discloses the identical invention as claimed by appellants, no *prima facie* case of anticipation has been established by the Examiner.

Every element of the claimed invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989), citing *Perkin-Elmer Corp. v. Computervision Corp.*, 732 F.2d 888, 895, 221 U.S.P.Q. 669, 673; *Kallman v. Kimberly-Clark Corp.*, 713 F.2d 760, 771-72, 218 U.S.P.Q. 781, 789 (Fed. Cir. 1983), *cert. denied*, 465 U.S. 1026, 79 L. Ed. 2d 687, 104 S. Ct. 1284 (1984). Moreover, the identical invention must be shown in as complete detail as is contained in the patent claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920.

Additionally, 35 U.S.C. § 103(a) recites that "[a] patent may not be obtained through the invention is not identically disclosed or described as set forth in Section 102 of this title" (emphasis provided), signifying conclusively that Section 102 requires identical disclosure or description. M.P.E.P. § 1504.02 recites that "[i]n design patent applications, the factual inquiry in determining anticipation over a prior art reference is the same as in utility patent applications.

That is, the reference 'must be identical in all material respects'" (emphasis provided). M.P.E.P. § 2122 recites that "[i]n order to constitute anticipatory prior art, a reference must identically disclose the claimed compound." (Emphasis provided) Because the Examiner has failed to show that Nessett et al. discloses every element of the claimed invention, arranged as in the claims, or the identical invention, no *prima facie* case of anticipation has been established.

c. Only Through a Distortion of the Teachings of Nessett et al. Can the Examiner Argue Identity of Invention

M.P.E.P. § 2131.01 indicates that "the Examiner should be fully aware of what the claims do not call for, as well as what they do require." Neither has been accomplished in this case. Claim 6 recites "determining whether said request may be granted." Of course, the request in this instance is the request to add a new user to a group of users. The Examiner again cited Nessett et al. at Col. 15, lines 40-55. But as explained previously, that portion of Nessett et al. does not discuss adding any user to any group of users. It discusses authentication and authorizing users before giving them access to a wide area network. That is not identical to the claimed invention. Thus, the Office has failed to state a *prima facie* case of anticipation.

d. Instead of Giving the Claimed Invention the Broadest Reasonable Interpretation Consistent With the Specification, the Examiner Gave Nessett et al. the Broadest, Most Unreasonable Interpretation

M.P.E.P. § 2131.01 provides that "[d]uring patent examination, the claims are given the broadest reasonable interpretation consistent with the specification," (emphasis provided) citing favorably, *In re Morris*, 127 F.3d 1048, 44 U.S.P.Q.2d 1023 (Fed. Cir. 1997). The specification referred to by the M.P.E.P. is the specification of the pending patent application being examined by the Examiner and not the applied reference, such as Nessett et al. The system of Nessett et al. is directed to a multi-layer firewall system and has nothing to do with defining a collaborative group spanning across server computers so as to allow users to share data. A firewall prevents

computers in the network of Nessett et al. from communicating directly with computers external to the network, and vice-versa. This is in contrast to the teachings of the claimed invention because its purpose is to allow communication to occur between computer servers that are external to one another.

For example, the Examiner has alleged that the claim limitation "in response to determining that said request may be granted, adding said new user to said group of users authorized to utilize said network database, the said group of users defining a collaborative group spanning across the server computer and another server computer so as to allow users to share data" can be found at Col. 8, lines 27-34, of Nessett et al. To make this explanation clear, appellants recite that portion of Nessett et al. in full:

The security policy language front end preferably also manages or serves as the front end to specify other information, such as user identifiers, groups of user identifiers, time specifications for a length of time access to a destination is allowed by a source, specifications of time intervals during which access to a destination is allowed, and so forth.

There is nothing in that portion of Nessett et al. that teaches defining a collaborative group spanning across server computers. Nessett et al. discusses the specification of groups of users' identifiers within a network, but that is not identical to the claimed invention. As discussed by the specification of appellants' pending specification, a need exists to allow a co-branded Web site to communicate with a business Web site to offer services that appear to come from the business without having to expend a large investment in creating such a service from the ground up. Note, for example, the Nessett et al. discussion at Col. 8, lines 17-20, where Nessett et al. distinguishes the treatment of systems outside of the management domain of the multi-layer firewall. This is not the identical disclosure required under 35 U.S.C. § 102(e).

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2. Dependent Claim 7

Claim 7 is dependent on Claim 6 and recites that the request is received over a secure communications link from a second server computer. The Examiner argued that the system of Nessett et al. teaches this feature of the claimed invention at Col. 16, lines 13-20, which appellants provide here in full:

Finally, protected communications is an important service provided by Remote Access. This may occur in two places. In some situations, the physical security provided by the PSTN may be insufficient to provide appropriate guarantees to the user/Private Intranet. In such cases, the Modem/Remote Access Router may cryptographically protect its communications with the Access/Line Server. This requires cryptographic protocols that run over serial lines.

The above paragraph of Nessett et al. discusses the use of cryptography to protect information between a modem/remote access router and an access/line server. That has nothing to do with a secure communications link between two computer servers. Because the Examiner has failed to show that Nessett et al. discloses every element of the claimed invention, no *prima facie* case of anticipation has been established.

Appellants incorporate by reference the arguments discussed in connection with Claims 6, 22, and 23 as if the discussed arguments were set forth here in full.

3. Dependent Claim 8

Claim 8 is dependent on Claim 7 and recites that a login and password for the new user are provided as part of the request. The Examiner indicated that Col. 12, lines 10-21, of Nessett et al. discloses the claim limitation, which appellants provide that paragraph here in full:

Both NICs and modems can provide features that support network access control. Modems may require a user to provide a password, use a token card or otherwise provide proof that he is authorized to initiate a connection before performing the out-dialing sequence. Modems also may support callback functionality in Access Servers that only allow connections from authorized phone numbers.

The security policy backend establishes security rules in NICs by, for example, storing updated NIC boot code in an associated network server, and signaling the NIC to reboot. In modems, driver code is updated or configuration registers are written with new values by communication with modem management code.

Nothing in those two paragraphs above indicates that a login and a password for a new user to be added to a new group of users are provided as part of the request to add for defining a collaborative group spanning across server computers. Thus, because the Examiner has failed to show that Nessett et al. discloses every element of the claimed invention, no *prima facie* case of anticipation has been established.

Appellants incorporate by reference the arguments discussed in connection with Claims 6, 7, 22, and 23 as if the discussed arguments were set forth here in full.

4. Dependent Claim 10

Claim 10 is dependent on Claim 6 and recites that the server computer comprises a server computer operated to store and update a network database. The second server computer comprises a server computer operative to provide an Internet Web site. The Examiner argued that Nessett et al. discloses a second server computer that is operative to provide facilities for storing and updating a network database in a manner that is visually consistent with an Internet Web site. It is puzzling, because Claim 10 does not require what is argued by the Examiner. Claim 10 recites two server computers. The first server computer is operative to store and update a network database and a second server computer is operative to provide an Internet Web site. Instead, the Examiner completely eliminated one of the two server computers as required by Claim 10 and indicated that somehow it is "in a manner that is visually consistent." Claim 10 requires no such limitation. Appellants now turn to Col. 15, lines 40-47, of Nessett et al.

All three configurations require some sort of network access control. The WAN Access case authenticates and authorizes users before giving them access to the WAN. Those ISPs that also provide access to local resources (e.g., locally managed content, email services, Web pages) in addition to

Internet access, also authenticate and authorize users before allowing them to use the local resources.

Nothing in that paragraph above supports the arguments of the Examiner and nothing about it has anything to do with two servers, one being operative to store and update a network database and another being operative to provide an Internet Web site. In contrast, Nessett et al. discusses the need for authentication and authorizing users before giving them access to the Wide Area Network. Then, for those Internet service providers that provide local resources, these users would also have to be authenticated and authorized before they are allowed to use local resources. These teachings are completely different from what is required by the claimed invention. The claimed invention indicates the forming of a collaborative group of users across server computers. Because the Examiner has failed show that Nessett et al. discloses every element of the claimed invention, no *prima facie* case of anticipation has been established.

Appellants incorporate by reference the arguments discussed in connection with Claims 6-8, 22, and 23 as if the discussed arguments were set forth here in full.

H. Rejection of Independent Claim 1 and Dependent Claims 2, 3, and 5, Under 35 U.S.C. § 103(a) in View of the Teachings of Nessett et al., and Further in View of the Teachings of Story et al.

The applied and cited references do not teach, among many other limitations, the claim limitation of "said second server computer is operative to provide facilities for storing and updating said network database in a manner that is visually consistent with a web site on the first server computer," as recited in independent Claim 1. The Examiner copied appellants' claim language in his final Office Action and cited various paragraphs of Nessett et al. and Story et al. where the claimed limitation is supposed to be found, but appellants cannot find them.

Claim 1 succinctly defines a method for providing remote access to the facilities of a server computer. The method receives a user request to access a first server computer. The method also determines whether the user request may be granted. In addition, in response to

determining that the user request may be granted, the method determines whether access to a second server computer should also be granted. Moreover, in response to determining that access to the second server computer should be granted, the method transmits a request to access the second server computer from the first server computer to the second server computer via a secure communications connection. The second server computer is operative to provide facilities for storing and updating a network database in a manner that is visually consistent with a Web site on the first server computer. Because the Examiner has failed to show where Nessett et al., Story et al., or any combination thereof, discloses every element of the claimed invention, no *prima facie* case of obviousness has been established.

Appellants incorporate by reference the arguments discussed in connection with Claims 6-8, 10, 22, and 23, as if the discussed arguments were set forth here in full.

1. The Examiner Has Utterly Failed to Establish A Prima Facie Case of Obviousness by Neglecting to Show That All The Claim Limitations Are Taught Or Suggested by The References.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Unlike appellants' claimed invention, there is nothing in Nessett et al., Story et al., or their combination that discloses the claimed feature "said second server computer is operative to provide facilities for storing and updating a network database in a manner that is visually consistent with a web site on the first server computer," as recited in Claim 1, among many other limitations. The Examiner argued that paragraph 0053 of Story et al. discloses the claimed feature. To fully understand what that paragraph actually discloses, appellants provide it in full:

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[0053] Another preference option allows an author to specify a linked document as a Trusted Reference 94. As noted above, documents copied into the Stage Subdirectory 64 eventually may be distributed to a directory on a network server 62. In some cases, an author may be confident that a specific sublevel document exists already on the network server 62 and may wish that document to be referenced at its existing address on the network rather than creating a duplicate locally. For example, Silicon Graphics, Inc. may have multiple hypermedia documents published in directories on a specific network server at <http://www.sgi.com/websites>, and may have a logo directory on that server at <http://www.sgi.com/websites/logos>, which includes image documents corresponding to logos for its various products. So that the logos are used consistently in its hypermedia documents, the company may desire that each hypermedia document references the documents in the logo directory rather than referencing image documents stored at other addresses. In such a case, an author of a company hypermedia document that includes links to image documents for logos may specify linked documents at <http://www.sgi.com/websites/logos> as Trusted References. Not only does this practice ensure that shared documents are consistent, but it also saves space and reduces subsequent maintenance work, often to a substantial degree.

This paragraph of Story et al. discusses the use of referenced documents so that logos are used consistently in hypermedia documents. The claimed invention requires visual consistency of a Web site, not logos. One with ordinary skill in the art knows the differences between a Web site and a logo. Thus, the Examiner has failed to establish a *prima facie* case of obviousness.

2. Instead of Providing A Motivation to Combine, The Examiner Offered A Modification of Nessett et al. So That "Companies' Logos Are Consistent."

Nessett et al. has to do with providing multilayer firewall systems, whereas Story et al. provides a way to allow logos to be used consistently in hypermedia documents. It is difficult to understand what one has to do with the other. It is also a mystery why one with ordinary skill in the art of firewall would want to modify Nessett et al. to make sure that logos are used consistently. Indeed, no motivation can be found in either reference. As indicated by M.P.E.P. § 2143.01, the mere fact that references can be combined while modified does not render the resulting combination obvious unless the prior art also suggests the desirability of the

combination. See *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990). One skilled in the art would not be motivated to modify Nessett et al. because making sure that logos are used consistently does not somehow enhance the security of firewall systems. Because there is no motivation to combine, the Examiner has failed to establish a *prima facie* case of obviousness.

I. Rejection of Dependent Claim 9 Under 35 U.S.C. § 103(a) in View of the Teachings of Nessett et al., and Further, in View of the Teachings of Kennelly et al.

Claim 9 is dependent on Claim 8 and recites that the method further comprises determining whether the new user has previously been added to the group of users authorized to utilize the network database. In response to determining the new user has previously been added to the group of authorized users, the method also recites denying the request to add the new user. The applied and cited references do not teach, among many other limitations, the claim limitation of "in response to determining that said new user has previously been added to said group of authorized users, denying said request to add said new user," as recited in dependent Claim 9.

While conceding that Nessett et al. failed to disclose the claim limitation, the Examiner proposed that Kennelly et al. teaches the claim limitation at Figure 8; and at Col. 10, line 65, to Col. 11, line 5. FIGURE 8 of Kennelly et al. illustrates a graphic representation of the operations of the system of Kennelly et al. where a set of data files is parsed to provide a management object that forms an HTML insert for a Web page of a graphical user interface. That has nothing to do with responding to the determination that a new user has previously been added to a group of authorized users by denying the request to add the new user as recited in Claim 9. Col. 10, line 65, to Col. 11, line 5, of Kennelly et al. reads as follows:

If the user has not logged in previously, the management object request processor 156 requests the user identification and password. The request processor 156 interfaces with the security object 201 (FIG. 7) to verify the login information. The security object 201 (FIG. 7) checks the user identification and password against the level of security access privileges

of the user. If the information is invalid, the switch 12 prompts the user to enter valid information.

Nothing in the above paragraph of Kennelly et al. has anything to do with the claimed invention. Kennelly et al. discusses authentication of a user already in existent in its system. In contrast, the claimed invention requires responding to the determination that the new user has previously been added to the group of authorized users by denying the request to add the new user. Nowhere does Kennelly et al. discuss the denial of adding a new user if the new user has previously been added to a group of users. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Because the Examiner has failed to show where either Nessett et al. or Kennelly et al. discusses "in response to determining that said new user has previously been added to said group of authorized users, denying said request to add said new user," as recited in Claim 9, no *prima facie* case of obviousness has been established.

The Examiner came up with two motivations to explain why Nessett et al. can be modified to combine with Kennelly et al. The first motivation, at page 7 of the final Office Action, is nearly identical to the claim language of Claim 9 of the pending patent application. As explained by M.P.E.P. § 2143, the teaching or suggestions to make the claimed combination must both be found in the prior art, not in applicant's disclosure, citing favorably *in re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). It is improper for the Examiner to use the disclosure by appellants as motivation to combine Nessett et al. and Kennelly et al. That is probably the reason why the second motivation is needed to modify Nessett et al. The second motivation is said to provide an access control list for a user group so as to prevent confusion generated by duplicate entries for the users registered in the group. Appellants are not clear how that could be a motivation to modify Nessett et al. The system of Nessett et al. has one access control list, hence there can be no confusion. Thus, there is no need to modify Nessett et al.

Kennelly et al., at the portions cited by the Examiner, teaches authentication of users, which Nessett et al. already disclosed. Therefore, there is nothing that is taught by Kennelly et al. that would benefit Nessett et al. by modifying it. Because there is no motivation to combine Nessett et al. and Kennelly et al., which combination appellants specifically deny, the Examiner has failed to state a *prima facie* case of obviousness.

Appellants incorporate by reference the arguments discussed in connection with Claims 1-3, 5-8, 10, 22, and 23, as if the discussed arguments were set forth here in full.

J. Rejection Under 35 U.S.C. § 103(a) in View of the Teachings of Nessett et al. and Further in View of the Teachings of Hayes, Jr. et al.

1. Independent Claim 11

Claim 11 succinctly defines a method for providing remote access to the facilities of a server computer. More particularly, the method receives a request at a server computer operated to store and update a network database to update user data for user authorized to utilize the network database. The user is removable from the server computer when a corresponding user is removed from another server computer that issues the request. Additionally, the method determines whether the request may be granted. Moreover, in response to determining that the request may be granted, the method updates the user data as specified in the request.

The applied and cited references do not teach, among many other limitations, the claim limitation of "the user being removable from the server computer when a corresponding user is removed from another server computer that issues the request," as recited in independent Claim 11. While the Examiner conceded that Nessett et al. failed to disclose the claim limitation, the Examiner indicated that Hayes, Jr., et al. teaches the claim limitation at Col. 21, lines 15-32, and Figure 22. Figure 22 illustrates an administrator's screen for managing group memberships, so as to control user access permissions. An administrator using Figure 22 of

Hayes, Jr., et al., can add or remove a user's membership in a group. That has nothing to do with the claimed invention. The claimed invention requires "the user being removable from the server computer when a corresponding user is removed from another server computer that issues the request," as recited in Claim 11. Controlling user access permissions via groups is nothing new. But this has nothing to do with the claimed invention. As explained by the specification, the problem is that when users are deleted from a partner Web site, they should also be deleted from a co-branded Web site. This problem is more than just changing group memberships.

The Examiner also cited Col. 21, lines 15-32, which appellants provide here in full to understand what Hayes, Jr., et al., actually discloses.

FIG. 22 shows the right panel when the administrator selects the second tab "Group Memberships". List 2220 shows all subgroups of which colleend is a member. The subgroups are shown in this list in the order of subgroup priority for colleend. The administrator can change colleend's subgroup priority by selecting a subgroup and using the up and down arrows to the right of list 2220 to move the selected subgroup up or down the list as desired. If the administrator clicks the "Add/Remove Group Memberships" button 2242 in FIG. 22, the right panel then shows the contents of FIG. 23. The FIG. 23 right panel allows the administrator to modify the subgroups of which colleend is a member. The administrator does this by clicking on an appropriate box corresponding to a desired subgroup. If the box is clear (meaning that colleend is not presently a member), then a check mark is added to the box to include colleend in the subgroup. Conversely, if a subgroup box is already checked, then clicking on the box clears the check mark and removes colleend from the subgroup.

Nothing in the above paragraph has anything to do with the claimed invention. Again, the paragraph cited by the Examiner discusses management of group memberships, which is distinct from removing a user from one server computer when a corresponding user is removed from another server. For the combination of Nessett et al. and Hayes, Jr., et al., to be possible, which combination appellants specifically deny, there must be a motivation. The motivation provided by the Examiner to modify Nessett et al. reads as follows: "such that the dynamic

situation i [sic] the business world can be accommodated wherein employees are constantly being assigned to and removed from groups."

There are several problems with the motivation that the Examiner came up with. First, it can be found in neither Nessett et al., nor Hayes, Jr., et al. Second, even if it were true that employees are constantly being assigned to and removed from groups, whatever that is, why would the system of Nessett et al. (which has to do with firewalls) need to be modified in the way that is suggested by the Examiner. A firewall prevents computers in an organization's network from communicating directly with computers external to the network. In contrast, the system of Hayes, Jr. et al. deal with group memberships to control access internally. There is no need to modify the system of Nessett et al. because Hayes, Jr., et. al. would not contribute anything to create the firewall, which is what Nessett et al. is about.

Appellants incorporate by reference the arguments discussed in connection with Claims 1-3, 5-10, 22, and 23, as if the discussed arguments were set forth here in full.

## 2. Dependent Claim 12

Claim 12 is dependent on Claim 11 and recites that the request is received over a secure communications link from a second server computer. The request is as recited in Claim 11, which has to do with storing and updating a network database to update user database for a user authorized to utilize a network database. The Examiner cited Nessett et al. at Col. 16, lines 13-20, which reads as follows:

Finally, protected communications is an important service provided by Remote Access. This may occur in two places. In some situations, the physical security provided by the PSTN may be insufficient to provide appropriate guarantees to the user/Private Intranet. In such cases, the Modem/Remote Access Router may cryptographically protect its communications with the Access/Line Server. This requires cryptographic protocols that run over serial lines.

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This paragraph discusses the use of cryptography to protect communication between a Modem/Remote Access Router and an Access/Line server. It has nothing to do with using a secure communications link to receive a request for updating user data for a user authorized to utilize a network database. Because not all the claim limitations have been taught or suggested by the prior art, the Examiner has failed to state a *prima facie* case of obviousness.

Appellants incorporate by reference the arguments discussed in connection with Claims 1-3, 5-11, 22, and 23, as if the discussed arguments were set forth here in full.

3. Dependent Claim 13

Claim 13 is dependent on Claim 12 and recites that the server computer comprises a server computer operative to store and update a network database and the second server computer comprises a server computer operative to provide an Internet Web site. The Examiner cited Nessett et al. at Figure 2 and at Col. 15, lines 40-47, for disclosing the claim limitation. Figure 2 of Nessett et al. is a diagram representative of a variety of network components involved in a multilayer firewall system. That has nothing to do with disclosing a server computer operative to store and update a network database and another server computer operative to provide an Internet Web site. At Col. 15, lines 40-47, Nessett et al. discusses the following:

All three configurations require some sort of network access control. The WAN Access case authenticates and authorizes users before giving them access to the WAN. Those ISPs that also provide access to local resources (e.g., locally managed content, email services, Web pages) in addition to Internet access, also authenticate and authorize users before allowing them to use the local resources.

Nothing about that paragraph discusses the two servers described in Claim 13. There is no server operative to store and update a network database. The paragraph cited by the Examiner discusses Internet service providers allowing access to local resources. Because not all the claim

limitations has been taught or suggested by the prior art, the Examiner has failed to state a prima facie case of obviousness.

Appellants incorporate by reference the arguments discussed in connection with Claims 1-3, 5-12, 22, and 23, as if the discussed arguments were set forth here in full.

K. Rejection of Independent Claim 14 Under 35 U.S.C. § 103(a) in View of the Teachings of Nessett et al., and Further in View of the Teachings of Schmuck et al.

Claim 14 succinctly defines a method for providing remote access to the facilities of a server computer. The method recites receiving a request for a facility available at a server computer operative to store and update a network database via a secure communications link. The method also determines whether the request may be granted. Furthermore, in response to determining that the request may be granted, the method recites executing the facility at the server computer according to the request. The facility includes creation of a new collaborative group in which users may share data. The method refrains from creating the collaborative group if a quota has been exceeded.

None of the applied and cited references teaches, among many other limitations, the claim limitation of "said facility including creation of a new collaborative group in which users may share data, the method refraining from creating said collaborative group if a quota has been exceeded," as recited in Claim 14. While the Examiner conceded that the system of Nessett et al. failed to disclose the claim limitation, the Examiner proposed that Schmuck et al. teaches the same at Col. 4, lines 63-67. To understand what Schmuck et al. actually teaches, appellants recite the entire paragraph, a portion of which is cited by the Examiner:

As a quota is a limit on the amount of disk that can be used by a user or group of users, in order to use the concept in our parallel file system we have created a way for local shares to be distributed by a quota manager (which accesses the single quota file) for parallel allocation. This is crucial for those cases where a user has multiple application instances

running on different computers sharing a file system. Our development provides for immediate recovery in many situations where sufficient quota exists at the time of the failure. In certain cases, running a utility like the UNIX standard utility called "quotacheck" is required to complete the recovery. We have also developed a technique for running a quotacheck utility at the same time as applications using quotas [sic] with minimal interference.

To be clear, Schmuck et al. discusses that "a quota is a limit on the amount of disk that can be used by a user or group of users." That absolutely has nothing to do with the claimed invention. The claimed invention is not about limiting the amount of disk space that is used by a user or a group of users. Instead, it is a quota that causes the claimed method to refrain from creating a new collaborative group. Thus, not all the claim limitations have been taught or suggested by the cited or applied references.

Additionally, the motivation that is provided is not a motivation that can be used to modify Nessett et al. Nessett et al. is about improving a firewall. It has nothing to do with a shared disk file system. Even if Nessett et al. could be modified to accommodate a shared disk file system, the combination neither disclose nor suggest the claimed invention. Additionally, Schmuck et al. requires multiple computers, each having an instance of an operating system. See the abstract of Schmuck et al. The problem is that the devices used in the system of Nessett et al. may have different operating systems, not instances of an operating system.

To combine, which combination appellants specifically deny, either the approach of Nessett et al. must be jettisoned, or the approach of Schmuck et al. must be abandoned, and the combination would destroy the operation of all the references. If a proposed modification would render a prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In Re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984). Because not all the claim limitations have been taught or

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suggested and given the lack of a motivation to combine, the Examiner failed to establish a *prima facie* case of obviousness.

Appellants incorporate by reference the arguments discussed in connection with Claims 1-3, 5-13, 22, and 23, as if the discussed arguments were set forth here in full.

L. Rejection Under 35 U.S.C. § 103(a) in View of the Teachings of Nessett et al., Schmuck et al., and Further in View of the Teachings of Hayes et al.

1. Dependent Claims 15, 19, 20, and 21

Claim 15 is dependent on Claim 14 and recites that the facility comprises an application programming interface for deleting access rights for a user to the server computer. None of the applied and cited references teaches this claim limitation among other claim limitations. While the Examiner conceded that neither Nessett et al. nor Schmuck et al. discloses the claim limitation, the Examiner indicated that Hayes, Jr. et al. teaches "the user being removable from the server computer when a corresponding user is removed from another server computer that issues the request" at Col. 21, lines 15-32; and Figure 22 of Hayes, Jr. et al.

First, the claim limitation that is allegedly taught by Hayes, Jr. et al. is not the claim limitation recited in Claim 15. Claim 15 recites "wherein said facility comprises an application programming interface for deleting access rights for a user to said server computer." The problem remains that the combination of Nessett et al. and Schmuck et al. is defective. As discussed before, Schmuck et al. teaches that a quota is placed on the amount of disk that can be used by a user or a group of users. But that is not what the claimed invention requires. It is the refrain from creating a collaborative group if a quota has been exceeded.

The defective combination of Nessett et al. and Schmuck et al. is not cured by the addition of Hayes, Jr. et al. Hayes, Jr. et al. teaches user access permissions and it has nothing to do with setting quota for creating collaborative groups. Because not all the claim limitations

have been taught or suggested by the combination of Nessett et al., Schmuck et al., and Hayes, Jr. et al., no *prima facie* case of obviousness has been established by the Examiner.

Appellants incorporate by reference the arguments discussed in connection with Claims 1-3, 5-14, 22, and 23, as if the discussed arguments were set forth here in full.

## 2. Dependent Claim 16

Claim 16 is dependent on Claim 15 and recites that the request further comprises a user ID for the user to be deleted. The Examiner cited Nessett et al. at Col. 12, lines 12-21 for the teaching of the claim limitation. That is not correct. To understand what Nessett et al. discloses at the cited location, appellants provide that portion herein:

Both NICs and modems can provide features that support network access control. Modems may require a user to provide a password, use a token card or otherwise provide proof that he is authorized to initiate a connection before performing the out-dialing sequence. Modems also may support callback functionality in Access Servers that only allow connections from authorized phone numbers.

The security policy backend establishes security rules in NICs by, for example, storing updated NIC boot code in an associated network server, and signaling the NIC to reboot. In modems, driver code is updated or configuration registers are written with new values by communication with modem management code.

Nowhere in the above two paragraphs is a user ID discussed, much less deleting the user based on the user ID. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness. Appellants incorporate by reference the arguments discussed in connection with Claims 1-3, 5-15, 19-22, and 23, as if the discussed arguments were set forth here in full.

M. A Recap of the Claimed Invention Clearly Shows That Nessett et al., Story et al., Kennelly et al., Hayes, Jr. et al., and Schmuck et al., Alone or in Combination, Do Not Teach, Let Alone Render Unpatentable, the Claimed Invention

Clearly, the references, each alone, much less in combination, fails to teach or suggest the subject matter of Claim 1. More specifically, none of the references, alone or in combination, teaches or suggests "said second server computer is operative to provide facilities for storing and updating said network database in a manner that is visually consistent with a Web site on the first server computer," as recited in Claim 1, among other claim limitations. As will be appreciated from the foregoing discussion, neither the applied nor the cited references teaches or suggests the subject matter of Claim 1. As a result, appellants submit that Claim 1 is clearly allowable in view of the teachings of the references.

With respect to dependent Claims 2, 3, and 5, all of which depend directly or indirectly from Claim 1, it is also clear that the subject matter of these claims is neither taught nor suggested by the applied and cited references, namely, all of these references, particularly when the limitations are considered in combination with the recitations of the claim from which these claims individually depend. In summary, Claims 2, 3, and 5 are submitted to be allowable for reasons in addition to the reasons why Claim 1 is submitted to be allowable.

Independent Claim 6 is directed to a method. The applied and cited references fail to teach "the said group of users defining a collaborative group spanning across the server computer and another server computer so as to allow users to share data," as recited in Claim 5, among other limitations. For generally the same reasons discussed above with respect to Claim 1, appellants submit that the subject matter of Claim 6 is neither taught nor suggested by the applied and cited references and, thus, Claim 6 is also allowable.

With respect to dependent Claims 7-10, all of which depend directly or indirectly from Claim 6, it is also clear that the subject matter of these claims is neither taught nor suggested by the applied and cited references. Claims 7-10 all have limitations that are clearly neither taught nor suggested by any of the applied and cited references, particularly when the limitations are considered in combination with these three citations of the claim from which these claims individually depend. In summary, Claims 7-10 are submitted to be allowable for reasons in addition to the reasons why Claim 6 is submitted to be allowable.

Independent Claim 11 is directed to another method. The applied and cited references fail to teach or suggest "the user being removable from the server computer when a corresponding user is removed from another server computer that issues the request," as recited in Claim 11, among other limitations. For generally the same reasons discussed above, with respect to Claims 1 and 6, appellants submit that the subject matter of Claim 11 is neither taught nor suggested by the applied and cited references.

With respect to dependent Claims 12 and 13, all of which depend directly or indirectly from Claim 11, it is also clear that the subject matter of these claims is neither taught nor suggested by the applied and cited references. Claims 12 and 13 all have limitations that are clearly neither taught nor suggested by any of their applied and cited references, particularly when the limitations are considered in combination with the recitations of the claim from which these claims individually depend. In summary, Claims 12 and 13 are submitted to be allowable for reasons in addition to the reasons why the Claim 11 is submitted to be allowable.

Independent Claim 14 is directed to a method for providing remote access to the facilities of a server computer. The applied and cited references further fail to teach or suggest "said facility including creation of a new collaborative group in which users may share data, the method refraining from creating said collaborative group if a quota has been exceeded," as

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recited in Claim 14, among other limitations. For generally the same reasons discussed above with respect to Claims 1, 6, and 11, appellants submit that the subject matter of Claim 14 is also neither taught nor suggested by the applied and cited references.

With respect to dependent Claims 15, 16, 19-21, all of which depend directly or indirectly from Claim 14, it is also clear that the subject matter of these claims is neither taught nor suggested by the applied and cited references. All of them have limitations that are clearly neither taught nor suggested by any of the applied and cited references, particularly when the limitations are considered in combination with the recitations of the claims from which these claims individually depend. In summary, these claims are submitted to be allowable for reasons in addition to reasons why Claim 14 is submitted to be allowable.

Independent Claim 22 is directed to a computer-readable medium comprising instructions which, when executed by a computer, cause the computer to perform any one of the methods of Claims 1-3, 5-16, and 19-21. In many ways, the subject matter of independent Claim 22 mirrors the subject matter of Claims 1-3, 5-16, and 19-21, albeit in a different manner. For reasons generally similar to reasons discussed above with respect to Claims 1-3, 5-16, and 19-21, Claim 22 is submitted to recite subject matter that is clearly neither taught nor suggested by the applied and cited references.

With respect to independent Claim 23, which is directed to a computer-control apparatus, In many ways, the subject matter of independent Claim 23 also merely mirrors the subject matter of Claims 1-3, 5-16, and 19-21, albeit, in a different manner. For reasons generally similar to reasons discussed above, with respect to Claims 1-3, 5-16, and 19-22, Claim 23 is submitted to recite subject matter that is clearly neither taught nor suggested by the applied and cited references.

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In light of the foregoing remarks, it is clear that none of the applied and cited references teaches, let alone renders unpatentable, the claimed inventions recited in Claims 1-3, 5-16, and 19-23. The applied and cited references are directed to situations that lack facilities for storing and updating a network database in a manner that is visually consistent with a Web site; does not define a collaborative group spanning across a server computer and another server computer; the inability for the user being removed from the server computer when a corresponding user is removed from another server computer; and no facility for refraining from the creation of a collaborative group if a quota has been exceed. The present invention is directed to an entirely different concept and solution.

In view of the foregoing remarks, appellants submit that all of the claims in the present application are patentably distinguishable over the teachings of Nessett et al., Story et al, Kennelly et al., Hayes, Jr. et al., and Schmuck et al., each alone or in combination. Therefore, it is submitted that the rejections of Claims 1-3, 5-16, and 19-23 were erroneous, and reversal of the rejection is respectfully requested.

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## VIII. CLAIMS APPENDIX

1. A method for providing remote access to the facilities of a server computer, comprising:

receiving a user request to access a first server computer;

determining whether said user request may be granted;

in response to determining that said user request may be granted, determining whether access to a second server computer should also be granted; and

in response to determining that access to said second server computer should be granted, transmitting a request to access to said second server computer from said first server computer to said second server computer via a secure communications connection, said second server computer is operative to provide facilities for storing and updating a network database in a manner that is visually consistent with a Web site on said first server computer.

2. The method of Claim 1, wherein said second server computer comprises a server computer operative to store and update said network database.

3. The method of Claim 1, wherein said first server computer comprises a server computer operative to provide said Web site.

4. (Canceled)

5. The method of Claim 1, further comprising receiving an indication that access to said second server computer should also be granted, redirecting said user from said first computer to said second computer.

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6. A method for providing remote access to the facilities of a server computer, comprising:

receiving a request at a server computer operative to store and update a network database to add a new user to a group of users authorized to utilize said network database;

determining whether said request may be granted; and

in response to determining that said request may be granted, adding said new user to said group of users authorized to utilize said network database, said group of users defining a collaborative group spanning across said server computer and another server computer so as to allow users to share data.

7. The method of Claim 6, wherein said request is received over a secure communications link from a second server computer.

8. The method of Claim 7, wherein a login and password for said new user are provided as a part of said request.

9. The method of Claim 8, further comprising:

determining whether said new user has previously been added to said group of users authorized to utilize said network database; and

in response to determining that said new user has previously been added to said group of authorized users, denying said request to add said new user.

10. The method of Claim 6, wherein said server computer comprises a server computer operative to store and update a network database, and wherein said second server computer comprises a server computer operative to provide an Internet Web site.

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11. A method for providing remote access to the facilities of a server computer, comprising:

receiving a request at a server computer operative to store and update a network database to update user data for a user authorized to utilize said network database, said user being removable from the server computer when a corresponding user is removed from another server computer that issues the request;

determining whether said request may be granted; and

in response to determining that said request may be granted, updating said user data as specified in said request.

12. The method of Claim 11, wherein said request is received over a secure communications link from a second server computer.

13. The method of Claim 12, wherein said server computer comprises a server computer operative to store and update a network database and wherein said second server computer comprises a server computer operative to provide an Internet Web site.

14. A method for providing remote access to the facilities of a server computer, comprising:

receiving a request for a facility available at a server computer operative to store and update a network database via a secure communications link;

determining whether said request may be granted; and

in response to determining that said request may be granted, executing said facility at said server computer according to said request, said facility including creation of a new collaborative group in which users may share data, the method refraining from creating said collaborative group if a quota has been exceeded.

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15. The method of Claim 14, wherein said facility comprises an application programming interface for deleting access rights for a user to said server computer.

16. The method of Claim 15, wherein said request further comprises a user ID for said user to be deleted.

17-18. (Canceled)

19. The method of Claim 14, wherein said request further comprises the identity of one or more users to be added to said new collaborative group.

20. The method of Claim 14, wherein said facility comprises an application programming interface for adding new users to an existing collaborative group in which users may share data.

21. The method of Claim 14, wherein said facility comprises an application programming interface for removing users from an existing collaborative group in which users may share data.

22. A computer-readable medium comprising instructions which, when executed by a computer, cause the computer to perform any one of the methods of Claims 1-3, 5-16, and 19-21.

23. A computer-controlled apparatus capable of performing any one of the methods of Claims 1-3, 5-16, and 19-21.

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IX. EVIDENCE APPENDIX

None.

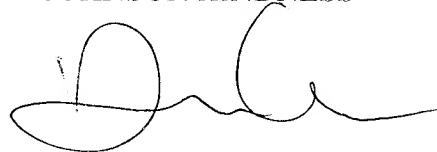
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X. RELATED PROCEEDINGS APPENDIX

None.

Respectfully submitted,

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